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California Board of Chiropractic Examiners
2525 Natomas Park Drive, Suite 260
Sacramento, Calif. 95833-2931

To the Board of Chiropractic Examiners and Each Member Thereof:

Lawrence Tain, D.C., Stephanie Higashi, D.C., Eric Spratt, D.C., Lori Prescott, D.C., and Gayle Walsh, D.C. (jointly hereafter referred to as petitioners) are chiropractors duly licensed to practice chiropractic in the State of California and they are also persons who utilize the services of chiropractors. They each presently seek to provide, and have available for their own care, all such diagnostic and treatment services as intended by the 1922 Chiropractic Initiative Act and subsequent amendments and as hereby sought to be defined and established by the California Board of Chiropractic Examiners (BCE).

Petitioners hereby request that the BCE determine and define each factor referred to in part A below and they specifically petition pursuant to Government Code sections 11340.6 and 11340.7 that the BCE repeal, adopt and amend regulations as indicated in parts B and C below. Petitioners have each authorized and directed their attorney, David Prescott, to make and sign this filing on their behalf.

A. PETITIONERS REQUEST THAT THE BCE DEFINE AND DETERMINE THE FOLLOWING

1. Petitioners request that the BCE define and determine the following:
 - a) The scope of practice that chiropractors were intended to have under the terms and provisions of the 1922 Chiropractic Initiative Act.
 - b) That the BCE has the right and duty to define and prescribe the minimum standards for the elective education provided for by amendments to the chiropractic act and as reasonably necessary for the safety of the public.
 - c) That the BCE has the right and duty to adopt regulations authorizing chiropractors to perform particular forms of diagnosis and treatment beyond the scope of practice authorized under presently existing BCE regulations and in so doing the BCE may condition such authorization upon completion of such prescribed minimum elective education and training as established by the BCE.
- 2) Petitioners further request that in defining and making the determinations requested in sub-parts (a)(b) and (c) above that the BCE define the following:
 - a) The theoretical and clinical perspective of each particular school of chiropractic that existed prior to, and around, 1922 and the forms of treatment chiropractors, including those licensed as drugless practitioners under the 1913 Medical Practice Act, utilized in that time period.

- b) The meaning of the expressions practice "medicine, surgery," and "osteopathy" and the meaning of the expression "drug or medicine now or hereafter included in *materia medica*" as each of those terms are used in section 7 of the chiropractic act.
 - c) The general advances in the theoretical and clinical and treatment aspects of each particular school of chiropractic that existed prior to, and around, 1922.
- B. PETITIONERS HEREBY PETITION THE BCE TO REPEAL CALIFORNIA CODE OF REGULATIONS, TITLE 16, SECTION 302 (Rule 302) and ADOPT A NEW SCOPE OF CHIROPRACTIC PRACTICE REGULATION
1. The reason for the request to repeal Rule 302 is that the scope of practice therein defined is inconsistent with the scope of practice granted to chiropractors by the 1922 Chiropractic Initiative Act and subsequent amendments.
 - a) Rather than the scope of practice provided for by Rule 302, chiropractors were intended to have the scope of practice sought to be provided by the new regulation the substance of which is stated in sub-part 2 next following.
 2. Request is hereby made that the BCE adopt a new scope of practice regulation in substance as follows:
 - a) Except as otherwise hereafter provided by amendment to California Code of Regulations, title 16, section 331.12.2(d), or by other duly adopted regulation, chiropractors are authorized to diagnose and treat diseases, injuries, deformities or other physical or mental conditions except by the use of any drug or medicine in *materia medica* in 1922 and thereafter, or by the performance of surgery.
 - 1) The expression any drug or medicine in *materia medica* did not in 1922, and does not now, include, or prevent chiropractors from using, dispensing, administering, ordering or prescribing for the diagnosis and treatment of diseases, injuries, deformities, or other physical or mental conditions, any of the following:
 - a. Food, extracts of food, nutraceuticals, vitamins, amino acids, minerals, enzymes, botanicals and their extracts, botanical medicines, homeopathic medicines, other substances and things derived from botanical, mineral or animal sources, air, water, clay, heat, sound, light, electricity, electromagnetic energy, therapeutic exercise, suggestive therapeutics, rest or joint and/or soft tissue massage, manipulation and adjustment for physiological, physical or reflex therapeutic purposes.
 - 2) In 1922 the term surgery meant, and it still means, operative surgery and did not, and does not, include, or prevent chiropractors from using, needles for diagnostic or therapeutic purposes or prevent them from utilizing routes of administration of those substances and procedures otherwise within their scope of practice that include oral, nasal, auricular, ocular, rectal, vaginal, transdermal, intradermal, subcutaneous, intravenous or intramuscular.
 - b) A chiropractor may not hold himself or herself out as being licensed to practice anything other than as a chiropractor or as holding any other healing arts license or as practicing medicine, osteopathy, dentistry, optometry, physical therapy, naturopathy, or acupuncture unless he or she holds another such license.

- c) The BCE should adopt a regulation in conformity with the foregoing because said regulation would be consistent with the intent of the chiropractic act when read as a whole and in the context of preceding and contemporaneous medical and healing arts practice acts, prior case law, the history of medicine and chiropractic and other relevant information and because, among other things:
 - 1) Chiropractors were intended to have the same basic practice right as did drugless practitioners under the 1913 Medical Practice Act (MPA) which was stated to be to "treat diseases, injuries, deformities, or other physical or mental conditions...."
 - 2) An alternative and complimentary reason is that schools of chiropractic thought existed prior to and around 1922 that utilized the types of substances, things and practices sought to be included within the chiropractic scope of practice by the proposed regulation.
 - a) Further, section 16 of the chiropractic act requires that the act be construed so as to not "discriminate against any particular school of chiropractic, or any other treatment...."
 - 3) The findings and conclusions made under part A hereof will support the basic right and exceptions as stated in the proposed regulation.

C. PETITIONERS HEREBY PETITION THE BCE TO AMEND CALIFORNIA CODE OF REGULATIONS, TITLE 16, SECTION 331.12.2(d) (Rule 331.12.2)

1. Request is hereby made that the BCE amend Rule 331.12.2 by defining and prescribing the minimum hours and standards of education and training it deems reasonably necessary for individual chiropractors to perform the "chiropractic meridian therapy, counseling, hypnotherapy and biofeedback" presently referred to in said Rule 331.12.2.
2. Request is hereby made that the BCE further amend Rule 331.12.2 by defining and prescribing the minimum hours and contemporary standards for additional education and training it deems reasonably necessary to enable individual chiropractors to safely utilize all of those substances, things and practices to be authorized by the new scope of practice regulation proposed in part B hereof.
3. Request is hereby made that the BCE further amend Rule 331.12.2 by defining and prescribing the minimum hours, subjects and standards for elective education and training to be made available under section 5 of the chiropractic act as amended.

The BCE has the authority to do the things and make the requested changes sought in parts A, B and C hereof pursuant to Chiropractic Act, section 4, subdivision (b).

Sincerely,

David Prescott
Attorney at Law

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